

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director
Thomas A. Faha
Regional Director

**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
COLLISION SPECIALISTS OF FAIRFAX, INC.
FOR
COLLISION SPECIALISTS OF FAIRFAX
EPA ID No. VAD023725278**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Collision Specialists of Fairfax, Inc. regarding Collision Specialists of Fairfax, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Collision Specialists" means Collision Specialists of Fairfax, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Collision Specialists is a "person" within the meaning of Va. Code § 10.1-1400.

4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Facility" or "Site" means the Collision Specialists of Fairfax, Inc. Facility located at 10313 Fairfax Boulevard in Fairfax, Virginia.
7. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
8. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
10. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
12. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effective date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
13. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
14. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(d)-(f).
15. "Va. Code" means the Code of Virginia (1950), as amended.
16. "VAC" means the Virginia Administrative Code.

17. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. Collision Specialists owns and operates the Facility in Fairfax, Virginia. The Facility is an auto body collision repair and painting facility. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
2. Suburban Auto Body, Inc., the previous owner of the Facility submitted a RCRA Subtitle C Site Identification Form on August 14, 1985, that gave notice of regulated waste activity at the Facility as an SQG of hazardous waste. Suburban Auto Body, Inc. was issued EPA ID No. VAD023725278 for the Facility. The Facility location is now occupied by Collision Specialists, and generates the same type and same quantity of waste as Suburban Auto Body, Inc. noted on its RCRA Subtitle C Form.
3. At the Facility, Collision Specialists generates paint waste, and waste associated with the cleaning of a paint spray gun, both of which are solid wastes. Paint waste and waste associated with the cleaning of a paint spray gun at the Facility are also hazardous wastes; F003, and F005 listed waste as described in 40 CFR § 261.31, D001, a waste that exhibits the characteristics of ignitability as described in 40 CFR § 261.21, and D035 a toxic characteristic waste as described in 40 CFR § 261.24. These hazardous wastes are accumulated in containers at the Facility after their generation.
4. On June 22, 2016, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:
 - a. The Facility is an SQG. Based on manifests reviewed by DEQ, Collision Specialists did not ship any waste off-site from June 7, 2012 to May 1, 2014, which is a period of 694 days, and did not ship any waste off-site from October 23, 2014 to April 21, 2016, which is a period of 547 days.
 - b. Based on information reviewed by DEQ prior to the inspection, a Notification of RCRA Subtitle C Activity (EPA 8700-12 Form) was submitted for the Facility location at 10313 Lee Highway, Fairfax, Virginia, on August 14, 1985, identifying Suburban Auto Body, Inc. as an SQG. The Facility location is now occupied by Collision Specialists. Collision Specialists has not provided notification updating the Facility information for EPA ID number VAD023725278.
 - c. DEQ staff observed that the location of the fire extinguishers and spill control material and the location of the fire alarm are not posted next to the Facility telephone.

- d. DEQ personnel observed twelve 10-gallon buckets and two 55-gallon drums of hazardous waste in the outside accumulation area. Accumulation start dates were not observed on any hazardous waste containers.
 - e. DEQ personnel observed twelve 10-gallon buckets and two 55-gallon drums of hazardous waste in the outside accumulation area, and one 55-gallon drum and one 10-gallon bucket in the area next to the mixing room. Hazardous waste labels were not observed on any hazardous waste containers.
 - f. DEQ personnel observed two 55-gallon drums of hazardous waste in the outside accumulation area and one 55-gallon drum inside the building in the Satellite Accumulation Area. One of the containers outside, and the satellite accumulation area container inside were open.
 - g. During the inspection, Collision Specialists' staff was unable to provide documentation that the police, fire departments, and emergency response teams have been familiarized with the layout of the Facility and associated hazards. Collision Specialists could not provide documentation that one police and one fire department with primary emergency authority had been designated, and Collision Specialists could not provide documentation to show that local hospitals have been familiarized with the properties of the waste handled at the Facility and the types of injuries or illness that could result.
 - h. At the time of the inspection, Collision Specialists' staff was unable to provide documentation that it notified DEQ of the exact location of the central accumulation area.
 - i. At the time of the inspection, Collision Specialists' staff was unable to provide written documentation of weekly inspections of its central accumulation area.
5. 40 CFR 262.34(d) states in part: "A generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status..."
6. 9 VAC 20-60-315 states: "A. Any person that notified the EPA of hazardous waste management activities as referenced in 9 VAC 20-60-305 B shall provide a copy of that notification to the department. B. Any person involved in hazardous waste management activities that did not comply with the notification requirements of the EPA as referenced in 9 VAC 20-60-305 B but is subject to those requirements shall notify the department in writing of their hazardous waste management activities by the effective date of this chapter. Notification shall be accomplished by use of the EPA Form 8700-12. C. Any person who initiated a hazardous waste management activity subsequent to the preliminary notification period of 42 USC §6930 but prior to the effective date of this chapter shall notify the department of the initiation of such activities by the effective date

of this chapter. Notification shall be accomplished by the use of EPA Form 8700-12.”

7. 40 CFR 262.34(d) states in part: “A generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that: ... (5) The generator complies with the following requirements: (ii) The generator must post the following information next to the telephone: (B) Location of fire extinguishers and spill control material, and if present, fire alarm.”
8. 40 CFR 262.34(d)(4) states in part: “(d) A generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that: (4) the generator complies with all the requirements of paragraphs (a)(2) and (a)(3) of this section...”
9. 40 CFR 262.34(a)(1)(iv)(B)(2) states: “The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.”
10. 40 CFR 262.34(a)(1)(iv)(B)(3) states: “While being accumulated on-site each container and tank is labeled or marked clearly with the words, “Hazardous Waste.”
11. 40 CFR 262.34(d)(2) states: “(d) A generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that: (2) The generator complies with the requirements of subpart I of part 265 of this chapter, except for §§265.176 and 265.178;
12. 40 CFR 265.173(a) states: “A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.”
13. 40 CFR 265.37 states: “(a) The owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations: (1) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes; (2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department and agreements with any others to provide support to the primary emergency authority; (3) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and (4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the type of injuries or illnesses which could result from fires, explosions, or releases at the facility.”
14. 9 VAC 20-60-262.B.4 states: “for accumulation areas established before March 1, 1988,

a generator who is not otherwise exempted by 40 CFR 261.5 shall notify the department of each location where he accumulates hazardous waste in accordance with 40 CFR 262.34 by March 1, 1988. For accumulation areas established after March 1, 1988, he shall notify the department and document in the operating record that he intends to accumulate hazardous waste in accordance with 40 CFR 262.34 prior to or immediately upon the establishment of each accumulation area. In the case of a new generator who creates such accumulation areas after March 1, 1988, he shall notify the department at the time the generator files the Notification of Hazardous Waste Activity that he intends to accumulate hazardous waste in accordance with 40 CFR 262.34. This notification shall specify the exact location of the accumulation area at the site.”

15. 40 CFR 265.174 states “At least weekly, the owner or operator must inspect areas where containers are stored, except for Performance Track member facilities, that must conduct inspections at least once each month, upon approval by the Director. To apply for reduced inspection frequency, the Performance Track member facility must follow the procedures described in §265.15(b)(5) of this part. The owner or operator must look for leaking containers caused by corrosion or other factors.”
16. On August 23, 2016, based on the inspection and follow-up information, the Department issued a Notice of Violation to Collision Specialists for the violations described in paragraphs C(4) through C(15) above.
17. On September 19, 2016, Department staff met with representatives of Collision Specialists to discuss the violations.
18. Based on the results of the June 22, 2016, inspection, and the September 19, 2016 meeting, the Board concludes that Collision Specialists has violated 40 CFR 262.34(d), 9 VAC 20-60-315, 40 CFR 262.34(a)(1)(iv)(B)(2), 40 CFR 262.34(a)(1)(iv)(B)(3), 40 CFR 262.34(d)(2), 40 CFR 262.34(d)(4), 40 CFR 262.34(d)(5), 40 CFR 265.173(a), 40 CFR 265.37, 9 VAC 20-60-262.B.4, and 40 CFR 265.174. as described in paragraphs C(4) through C(15), above.
19. In order for Collision Specialists to return to compliance, DEQ staff and representatives of Collision Specialists have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Collision Specialists of Fairfax, Inc., and Collision Specialists of Fairfax, Inc. agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$15,000.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Collision Specialists of Fairfax, Inc. shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Collision Specialists of Fairfax, Inc. shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Collision Specialists of Fairfax, Inc. for good cause shown by Collision Specialists of Fairfax, Inc., or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Collision Specialists of Fairfax, Inc. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Collision Specialists of Fairfax, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Collision Specialists of Fairfax, Inc. declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Collision Specialists of Fairfax, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Collision Specialists of Fairfax, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Collision Specialists of Fairfax, Inc. shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Collision Specialists of Fairfax, Inc. shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

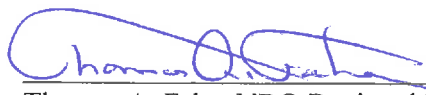
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Collision Specialists of Fairfax, Inc.. Nevertheless, Collision Specialists of Fairfax, Inc. agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Collision Specialists of Fairfax, Inc. has completed all of the requirements of the Order;

- b. Collision Specialists of Fairfax, Inc. petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Collision Specialists of Fairfax, Inc..

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Collision Specialists of Fairfax, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Collision Specialists of Fairfax, Inc. and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of Collision Specialists of Fairfax, Inc. certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Collision Specialists of Fairfax, Inc. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Collision Specialists of Fairfax, Inc..
- 14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
- 15. By its signature below, Collision Specialists of Fairfax, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 3rd day of January, 2018.


Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

Collision Specialists of Fairfax, Inc. voluntarily agrees to the issuance of this Order.

Date: 10-30-17 By: [Signature] President
(Person) (Title)
[Collision Specialists of Fairfax, Inc.]

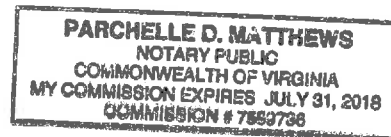
Commonwealth of Virginia
City/County of FAIRFAX

The foregoing document was signed and acknowledged before me this 30th day of OCTOBER, 2017, by HUBO BOLLIVIAN (PRESIDENT) who is PRESIDENT of Collision Specialists of Fairfax, Inc., on behalf of the corporation.

[Signature]
Notary Public
7589736 Comm #
Registration No.

My commission expires: 07/31/2018

Notary seal:



Copy for Mr. Peterson - pool mailed over night 11/4/17
u Dept. E. Q.

APPENDIX A SCHEDULE OF COMPLIANCE

Collision Specialists of Fairfax, Inc. shall:

1. Submit a completed EPA 8700-12 Notification of RCRA Subtitle C Activity Form to DEQ to update the Facility name, contact information, and hazardous waste activities within 30 days of execution of this Order.
2. Submit documentation to DEQ within 30 days of execution of this Order, to show that police, fire departments, emergency response teams, and hospitals have been familiarized with the layout of the Facility and associated hazards.
3. Submit photo documentation to DEQ within 30 days of execution of this Order, to show that all containers have been properly labeled with the words "Hazardous Waste," and the accumulation start dates, and are being kept closed when not in use.
4. Submit documentation to DEQ within 30 days of execution of this Order, that Collision Specialists staff are conducting weekly inspections of hazardous waste storage areas.
5. Submit photo documentation to DEQ within 30 days of execution of this Order, depicting that the location of fire extinguishers and spill control material and the location of the fire alarm is posted next to the Facility telephone.
6. Contact Information

Unless otherwise specified in this Order, Collision Specialists of Fairfax, Inc. shall submit all requirements of Appendix A of this Order to:

Attention: Enforcement
VA DEQ –NRO Regional Office
13901 Crown Court
Woodbridge, VA 22193